REMARKS

Claims 25, 27-36, 39-49, 52-60 and 62-73 were pending in the subject application. By this Amendment, applicants have canceled Claims 33, 48, 49, and 54-73 without prejudice or disclaimer, amended Claims 25, 34, 36, and 41, and added new claims 74-77. Accordingly, upon entry of this Amendment, Claims 25, 27-32, 34-36, 39-47, 52-53, and 74-77 will be pending and under examination.

Applicants maintain that the amendments to the claims do not raise an issue of new matter. Support for the amendments to Claim 25 and 34 can be found at least in Claim 33, on page 10, 2nd to last paragraph, page 14, 1st paragraph, and page 22, 1st paragraph. Support for the amendment to Claim 36 can be found on page 13, line 1, and page 14, line 2. Support for the amendments to Claim 41 can be found at least in Claim 48 and on page 22, 1st paragraph. Support for new Claims 74 and 75 can be found at least in Claims 35 and 36. Support for new Claims 76 and 77 can be found at least on page 14, end of 1st paragraph. Accordingly, entry of the amendments is respectfully requested.

Claim Objection

Claim 36 is objected to. The Examiner indicated that the current claim language implies the use of all three of Citrate, Phosphate, and Dextrose, and that if this is not applicants' intent, the claim language should be clarified. Applicants thank the Examiner for bringing this point of possible confusion to applicants' attention. In reply, applicants mean the use of all of "Citrate, Phosphate, and Dextrose." Applicants have amended the claim to refer to the anticoagulant as "Citrate, Phosphate, and Dextrose (CPD)" in order to further clarify this point. Reconsideration and withdrawal of this objection are respectfully requested.

Rejections under 35 U.S.C. §102/103

1. Claims 25, 27, 30-36, 39-42, 45-49, 52-55, 58-60, 62-65 and 68-73 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over, Boyse et al. (U.S. Patent No. 5,004,681) (hereinafter "BOYSE").

Applicants respectfully traverse this rejection.

Independent Claim 25 has hereinabove been amended to specify that the claimed therapeutic product contains less than 10% of red blood cells contained in the cord blood or placental blood from which the therapeutic product is obtained and that the therapeutic product is characterized by a white cell viability greater than 80% with respect to the cord blood or placental blood.

As noted by the Examiner, Table III in BOYSE lists % viability values greater than 80%; however, as clarified in Column 37, lines 55-58 of BOYSE, "the values shown in Table III represent remaining progenitor cells after loss of progenitors due to cell separation procedures (see Table IV, infra)." The values shown in Table III represent % viability of those cells remaining after cell separation and not % viability with respect to the cells that were present before cell separation procedures. Table IV in BOYSE teaches that the % yields of white blood cells following cell separation procedures are well below the 80% viability with respect to the original sample that is required in Claim 25 (see Table IV, column 40, Experiments 1 and 2, CFU-GM and CFU-GEMM cell types). Accordingly, BOYSE does not teach or suggest a therapeutic product having the properties set forth in Claim 25.

Independent Claim 41 has hereinabove been amended to specify that the claimed therapeutic product contains less than 10% of red blood cells contained in the cord blood or placental blood from which the therapeutic product is obtained and that the therapeutic product comprises thawed white blood cells having a viability greater than 90% with respect to the cord blood or placental blood. The viability of thawed white cells

in BOYSE (Column 50, lines 45-55, Table V) do not approach the claimed invention. The viability values presented in Table III of BOYSE, which were noted by the Examiner, represent viability prior to freezing and thawing of the cells, and as discussed above, represent % viability only with respect to those cells remaining after cell separation procedures.

The remaining pending claims depend from either independent Claim 25 or 41.

BOYSE does not teach or suggest the white cell viability following cell separation, and in the case of Claim 41 following thawing, that is achieved by the claimed invention. Rather, BOYSE's failure to achieve the claimed invention teaches away from and is evidence of the non-obviousness of the claimed invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

2. Dependent claims 28, 29, 43, 44, 56, 57, 66 and 67 are rejected under 35 U.S.C. §103(a) as obvious over BOYSE in view of Livesey et al. (U.S. Patent No. 5,622,867) (hereinafter "LIVESEY").

LIVESEY teaches methods for prolonging the preservation of platelets at reduced temperatures. In view of the amendments and remarks made hereinabove, applicants maintain that the combination of BOYSE and LIVESEY does not render obvious the rejected claims which depend from, and further limit, one of independent Claims 25 or 41. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Supplemental Information Disclosure Statement

In accordance with the duty of disclosure under 37 C.F.R. §1.56, applicants would like to direct the Examiner's attention to the references that are listed on attached

Form PTO/SB/08A-B (2 pages). A copy of the non-patent reference listed on the Form is also attached hereto. A check for $180.00 is enclosed to cover the fee for submitting an Information Disclosure Statement pursuant to 37 C.F.R. §1.97(c)(2).

CONCLUSIONS

In view of the amendments and the remarks made hereinabove, applicants respectfully request reconsideration and withdrawal of the rejections set forth in the February 8, 2005 Office Action and passage the pending claims to allowance. If there are any minor matters that prevent allowance of the subject application, the Examiner is requested to contact the undersigned attorney.

A check for $180.00 is enclosed to cover the fee for filing an Information Disclosure Statement. No other fee is deemed necessary in connection with the filing of this Amendment. However, if there are unanticipated fees required to maintain the pendency of this application, the PTO is authorized to withdraw the amount of any such fee from Deposit Account 01-1785.

Respectfully submitted,

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By: _____
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